

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

TRISHA SIVELY,

Plaintiff,

v.

**OHIO DEPARTMENT OF MENTAL
HEALTH AND ADDICTION
SERVICES,**

Defendant.

Civil Action 2:23-cv-2567

Judge Michael H. Watson

Magistrate Judge Chelsey M. Vascura

REPORT AND RECOMMENDATION

This matter is before the undersigned for a Report and Recommendation on the Court's September 5, 2024 Show Cause Order (ECF No. 13). For the reasons that follow, it is **RECOMMENDED** that this action be **DISMISSED WITH PREJUDICE** pursuant to Federal Rule of Civil Procedure 41(b) for failure to prosecute.

The mediator in this case reported on July 29, 2024, that counsel had represented to him that "this matter has been settled and dismissed with prejudice." On July 30, 2024, the Court ordered the Parties to file a status report on or before August 13, 2024, unless they had filed a stipulation of dismissal in accordance with Federal Rule of Civil Procedure 41(a)(1)(A) in the interim. (ECF No. 11.) With no activity on the docket following that Order, on August 29, 2024, the Court ordered the Parties to file a status report on or before September 3, 2024, unless they had filed a stipulation of dismissal in accordance with Federal Rule of Civil Procedure 41(a)(1)(A) in the interim. (ECF No. 12.) When the Parties also failed to comply with that Order, on September 5, 2024, the Court ordered Plaintiff to show cause within fourteen days why her claims should not be dismissed for want of prosecution. (ECF No. 13.) That Order provided,

“Plaintiff is cautioned that her failure to show cause will result in dismissal of this action for failure to prosecute. No further warnings will be provided to Plaintiff regarding this matter.” (*Id.*)

To date, Plaintiff has not responded to the Show Cause Order. It is therefore **RECOMMENDED** that this action be **DISMISSED WITH PREJUDICE** pursuant to Rule 41(b) for failure to prosecute.

PROCEDURE ON OBJECTIONS

If any party objects to this Report and Recommendation, that party may, within fourteen (14) days of the date of this Report, file and serve on all parties written objections to those specific proposed findings or recommendations to which objection is made, together with supporting authority for the objection(s). A District Judge of this Court shall make a *de novo* determination of those portions of the Report or specified proposed findings or recommendations to which objection is made. Upon proper objections, a District Judge of this Court may accept, reject, or modify, in whole or in part, the findings or recommendations made herein, may receive further evidence or may recommit this matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1).

The parties are specifically advised that failure to object to the Report and Recommendation will result in a waiver of the right to have the District Judge review the Report and Recommendation *de novo*, and also operates as a waiver of the right to appeal the decision of the District Court adopting the Report and Recommendation. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

/s/ Chelsey M. Vascura
CHELSEY M. VASCURA
UNITED STATES MAGISTRATE JUDGE